IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS WESTERN DIVISION

United States of America,)
Plaintiff,) Case No: 99 CR 50022-1
v.)
Harry D. Lowe,) Judge Philip G. Reinhard)
Defendant.)

ORDER

For the reasons stated below, defendant's motion to cease charging subsistence fees [235] is denied.

STATEMENT

On July 22, 2015, defendant Harry D. Lowe, currently incarcerated at the Rock Valley Community Programs in Janesville Wisconsin, a reentry services program (halfway house), filed a motion requesting that this court order the Federal Bureau of Prisons and/or Rock Valley Community Programs to cease charging him subsistence fees and also to refund him subsistence fees that he has already been charged. *See* [235]. In the motion, defendant contends that the subsistence fees are in violation of this court's order at defendant's December 4, 2000 sentencing hearing that defendant not be charged or made to pay for any portion of his imprisonment. *See* [235] at 1.

In *Eaton v. United States*, 178 F.3d 902 (7th Cir. 1999), the Seventh Circuit expressly held that district courts do not have jurisdiction to consider motions of this kind. In *Eaton*, the defendant was made to pay 25% of any wages as subsistence fees to the Bureau of Prisons and his halfway house. He filed a motion requesting "a return of the deducted wages and an injunction against future deductions" based in part on the fact that the sentencing judge had declined to order that he pay the costs of his confinement. *See Eaton*, 178 F.3d at 903. The Seventh Circuit held that "[t]he district court had no jurisdiction to consider the motion" because the defendant "could not proceed under 28 U.S.C. § 2255" and "[t]he Federal Rules of Criminal Procedure do not make provisions for the type of motion that [defendant] has made[.]" *Id.* at 903-04 (noting that the defendant could potentially file a separate civil action but holding that the district court had no jurisdiction to consider such a claim raised in a motion in defendant's criminal case). As such, the court denies defendant's motion [235] for lack of jurisdiction.

Date: 7/28/2015 ENTER:

United States District Court Judge

Philip G. Reinhard